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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/373,230	08/12/1999	HARUKI OKMURA	OKAMURA=2E	2359

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EXAMINER

JIANG, DONG

ART UNIT	PAPER NUMBER
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1646

DATE MAILED: 01/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/373,230

Applicant(s)

OKMURA ET AL.

Examiner

Dong Jiang

Art Unit

1646

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 December 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-9 and 11-15.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.


LORRAINE SPECTOR
PRIMARY EXAMINER

Continuation of 2. NOTE: In claim 11, the newly added claim limitation "having one or more antigenic fragments" raises the new issues that would require further consideration.

Continuation of 3. Applicant's reply has overcome the following rejection(s): the objection of the specification for failing to provide proper antecedent basis for the claimed subject matter, for using the terminology "antioncotic agent", for using inconsistent SEQ ID NOs; the new matter rejection of claims 1-3, 7, 11, and 12 under 35 U.S.C. 112, first paragraph; the rejection of claims 1, 2, 4-9, and 12-15 under 35 U.S.C. 112, second paragraph.

Continuation of 7. claims 3-6 remain rejected under 35 U.S.C. 112, first paragraph, for the reasons of records set forth in the previous Office Actions, paper Nos. 4 and 7, and the reasons below. The claim limitation in Part (4) of claim 3 that "wherein said variant has the amino acid sequence of SEQ ID NO:2 with at least one amino acid residue in SEQ ID NO:2 replaced ..." reads on a functional equivalent of IGIF, which may not be a sequence variant of SEQ ID NO:2 as there is no upper limit in the claim as to how many amino acid residues may be replaced. And such a functional equivalent is not described in the specification.

Claims 1, 2, 11, 14, and 15 remain rejected under 35 U.S.C. 112, first paragraph, for the reasons of records set forth in the previous Office Actions, paper Nos. 4 and 7. With respect to claim 11, it is not the Examiner's requirement to check if a monoclonal antibody to a certain polypeptide binds to other polypeptides and disclose the result in the specification. The Examiner meant that the variants which react with a monoclonal antibody not reacting with SEQ ID NO:2 are not described in the specification, and therefore, it does not reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Claims 3 and 11 remain rejected under 35 U.S.C. 112, second paragraph, for the recitation of "not substantially altering" for the reasons of records set forth in the previous Office Actions, paper No. 7.

Claims 3, 5 and 6 remain rejected under 35 U.S.C. 102(b), for the reasons of records set forth in the previous Office Actions, paper Nos. 4 and 7. Applicants argument has been fully considered, but is not deemed persuasive because Applicants ignored the other relevant references cited, indicating the prior art protein is the same as that of the present invention.

Claims 1, 2, 11, 14, and 15 remain rejected under 35 U.S.C. 102(b), for the reasons of records set forth in the previous Office Actions, paper No. 7.